IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

FAO.No. 136 of 2007()

AGAINST THE ORDER DATED 16-3-2007 IN IA NO.10/2007 IN OS.1/2007 of SUB COURT, VADAKARA

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APPELLANTS/PETITIONERS/PLAINTIFFS:
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1. CHETTIAM VEETTIL RABIYA,
W/O. KUNHAMMAD MASTER, AGED 44 YEARS,
POYIL KUNIYIL, PONMERY AMSOM, PARAMBIL DESOM,
VADAKARA TALUK, KOZHIKODE DISTRICT.

2. CHETTIAM VEETTIL NABEESA, W/O. ABDULLA,
CHETTIAM VEETTIL, PONMERY AMSOM, PARAMBIL DESOM,
VADAKARA TALUK, KOZHIKODE DISTRICT.

3. CHETTIAM VEETTIL KATHEESA,
W/O. ALIKUTTY, AGED 42 YEARS, CHETTIAM VEETTIL,
PONMERY AMSOM, PARAMBIL DESOM, VADAKARA TALUK,
KOZHIKODE DISTRICT.

4. CHETTIAM VEETTIL JAMEELA,
W/O. MUHAMMED BASHEER, AGED 39 YEARS,
CHETTIAM VEETTIL, PONMERY AMSOM, PARAMBIL DESOM,
VADAKARA TALUK, KOZHIKODE DISTRICT.

5. CHETTIAM VEETTIL MAYANKUTTY, S/O. AMMAD
CHETTIAM VEETTIL, PONMERY AMSOM, PARAMBIL DESOM,
VADAKARA TALUK, KOZHIKODE DISTRICT.

6. CHETTIAM VEETTIL HAJIRA,
W/O. MUHAMMEDALI, OTTATHENGUMMAL, P.O. KUTTIADY.

7. CHETTIAM VEETTIL NAJMA, W/O. HASHIM,
AGED 28 YEARS, CHETTIAM VEETTIL, PONMERY AMSOM,
PARAMBIL DESOM, VADAKARA TALUK, PARAMBIL DESOM,
VADAKARA TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENTS: RESPONDENTS/DEFENDANTS:
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1. CHETTIAM VEETTIL KUNHAMI, D/O.AMMAD,
   PONMERY AMSOM, PARAMBIL DESOM, VADAKARA TALUK,
   KOZHIKODE DISTRICT.

2. CHETTIAM VEETTIL ABDULLA, S/O. AMMAD,
   AGED 40 YEARS, PONMERY AMSOM, PARAMBIL DESOM,
   VADAKARA TALUK, KOZHIKODE DISTRICT.

3. CHETTIAM VEETTIL MOIDEEN, S/O.AMMAD,
   AGED 35 YEARS, CHETTIAM VEETTIL, PONMERY AMSOM,
   PARAMBIL DESOM, VADAKARA TALUK, KOZHIKODE DISTRICT

4. KAMMALMEETHAL BHARATHAN, S/O.KELAPPAN,
   AGED ABOUT 36 YEARS, PONMERY AMSOM,PARAMBIL AMSOM,
   VADAKARA TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.C.VALSALAN

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 31/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & T.R.RAMACHANDRAN NAIR,JJ.

F.A.O.No. 136 of 2007

Dated this the 31st day of May, 2007

JUDGMENT

Kurian Joseph,J.

Appellants are plaintiffs in O.S.No.1/2007 and they are also the petitioners in I.A.No.10/2007 on the file of the Sub Court, Vadakara. The suit is one for partition. In the application petitioners prayed for a temporary injunction against the 4th respondent restraining him and his men from trespassing into the plaint schedule property and from causing any inconvenience to the inmates of the house where some of the appellants are residing. According to the 4th respondent the disputed item is his absolute property, having got assigned from the 3rd respondent.

2. Having extensively heard the parties the dispute, as it now appears, is only within a narrow compass regarding the issue covered by the interlocutory application. As far as the appellants are concerned, since according to them some of them are residing in the house, they apprehend eviction by the 4th respondent. As far as the 4th respondent is concerned, he has

made all arrangements for construction of a house in the 20 cents of property in item No.1 and hence there shall not be any interference from the appellants. What is the actual extent of item No.1 is not quite clear from the pleadings. But it is fairly clear that even without disturbing the residential house, which is said to be situated in item No.1, the 4th respondent can go on with the construction in the 20 cents of property. Therefore, at this juncture we need only clarify that it will be open to the 4th respondent to proceed with the construction at his risk in the plaint schedule property without disturbing the residential house said to be situated in item No.1. The trial court shall dispose of the suit expeditiously untrammelled by the observations and findings contained in the interlocutory order under appeal.

The F.A.O is disposed of as above.

(KURIAN JOSEPH, JUDGE)

(T.R.RAMACHANDRAN NAIR, JUDGE)

ahg.